

REMARKS

Applicants submit this Reply to the Office Action mailed October 13, 2006. By this Reply, Applicants have amended claims 1, 6, 7 and 10. Accordingly, claims 1-10 remain pending in this application. The originally-filed specification, drawings, and claims fully support the subject matter of amended claims 1, 6, 7 and 10. Thus, this Amendment introduces no new matter.

As an initial matter, Applicants thank the Examiner for indicating allowable subject matter in claims 6-9. In the Office Action, “[c]laims 1-10 [were] rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” Office Action at 2. Specifically the Office Action states that claims 1 and 10 contain “no clear recitation in the body . . . as to how the actual ground speed and the maximum ground speed are being employed to maintain a constant ground speed of a work machine.” *Id.* Applicants have amended claims 1 and 10 to better clarify the claimed invention and request withdrawal of the rejection. The Office Action further rejects claims 1, 6, 8, and 9 under 35 U.S.C. § 112, second paragraph, for “antecedent basis problems.” *Id.* Applicants have amended claims 1 and 6 as suggested by the Examiner and thus request withdrawal of the rejection. With respect to claims 8 and 9, Applicants traverse the rejection and submit that an antecedent basis problem does not exist. In particular, contrary to the office action, there is no requirement to include “said step of” in order to provide proper antecedent basis. Accordingly, Applicants request withdrawal of the 35 U.S.C. § 112 rejection of claims 8 and 9. Finally, the Office Action rejects claim 7 under 35 U.S.C. § 112, second paragraph, because “the preamble is directed to

a method of maintaining a constant ground speed of a work machine. However, there is no recitation in the body of the claim as to how the ground speed of the work machine is being maintained” *Id.* Applicants have amended claim 7 as suggested by the Examiner and therefore request withdrawal of the rejection.

In the Office Action, claims 1, 3, 5, and 10 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2005/0004736 to Belcher et al. (“Belcher”) and claims 2 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Belcher. Applicants respectfully traverse these rejections for the reasons stated below.

Applicants note that prior art anticipates only if each and every element as set forth in the claims is found described in the prior art. M.P.E.P. § 2131. Similarly, a *prima facie* case of obviousness requires, *inter alia*, that the prior art references, when combined, must teach or suggest every aspect of the claims. M.P.E.P. § 2143.

Belcher does not anticipate claims 1, 3, 5, and 10 because Belcher fails to disclose or suggest each and every element of claims 1, 3, 5, and 10. For example, Belcher fails to disclose, among other things, “determining a minimum high idle RPM of the work machine; applying an algorithm to determine desirable RPM of the engine of the work machine based on at least the signal indicative of the actual ground speed and the predetermined maximum ground speed of the work machine,” as recited in independent claim 1. Belcher discloses “[a] method and apparatus for controlling engine rpm and thus the real time implement operating speed . . . of industrial and off highway vehicles.” Belcher, Abstract. Belcher fails to disclose or suggest determining a minimum high idle RPM of the work machine; applying an algorithm to determine

desirable RPM of the engine of the work machine based on at least the signal indicative of the actual ground speed and the predetermined maximum ground speed of the work machine,” as recited in amended independent claim 1. Accordingly, Applicants request withdrawal of the 35 U.S.C. § 102(e) rejection of claim 1.

Claims 3 and 5 depend from claim 1 and thus include all the elements and limitations of independent claim 1. Claims 3 and 5 and therefore allowable for at least the same reasons that claim 1 is allowable.

Similar to the arguments presented above regarding independent claim 1, Belcher fails to anticipate independent claim 10. For example, claim 10 recites, among other things, determining a minimum high idle RPM of the work machine; modulating the fuel, based on the parameter indicative of the ground speed of the work machine and the predetermined maximum ground speed of the work machine, to the engine to maintain a constant ground speed of the work machine. As noted above in connection with claim 1, although Belcher discloses “[a] method and apparatus for controlling engine rpm and thus the real time implement operating speed . . . of industrial and off highway vehicles (Belcher, Abstract)” Belcher fails to disclose or suggest determining a minimum high idle RPM of the work machine, as recited in claim 10. Accordingly, Applicants request withdrawal of the 35 U.S.C. § 102(e) rejection of claim 10.

Regarding the 35 U.S.C. § 103(a) rejection of claims 2 and 4 as being unpatentable over Belcher, Applicants submit that a *prima facie* case of obviousness under 35 U.S.C. § 103(a) has not been established. As noted above in connection with independent claim 1, Belcher does not disclose or suggest, among other things, “determining a minimum high idle RPM of the work machine; applying an algorithm to

determine desirable RPM of the engine of the work machine based on at least the signal indicative of the actual ground speed and the predetermined maximum ground speed of the work machine.” Claims 2 and 4 depend from claim 1. In view of this, claims 2 and 4 include all the elements and limitations of claim 1 and are therefore allowable over Belcher for at least the same reasons that claim 1 is allowable.

In view of the foregoing remarks, Applicants submit that the claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request withdrawal of the rejections and timely allowance of all pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.



Please grant any extensions of time required to enter this Amendment and
charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By:



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